	STATE OFFICE for SERVICES to CHILDREN and FAMILIES **CLIENT SERVICES MANUAL I** **ISSUED BY:** Management Operations **EFFECTIVE DATE:** March 1, 1997	**NUMBER:** I-E.6.1 **SECTION:** E. Substitute Care **SUBSECTION:** 6. Funding Eligibility
SUBJECT: 1. Title IV-E-FC and General Assistance		

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Interpretation: Financial Resources Unit

Approval: Marjorie Lowe
Assistant Administrator,
Management Operations

REFERENCES: Title IV-E-FC
FS, ADC Manual II and SOSCF Policy I-B.3.2.1
CF 499, "Voluntary Placement Agreement"
PL 96-272, Adoption Assistance and the Child Welfare Act of 1980

PURPOSE

413-100-0000 The purpose of these rules is to set forth the procedures and criteria the agency will use to make Title IV-E-FC federal financial participation eligibility determinations for children in substitute care and in the care and custody of the State Office for Services to Children and Families.

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

POLICY

ELIGIBILITY REQUIREMENTS

413-100-0010 (1) Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980, became effective June 17, 1980. It amended Title IV of the Social Security Act to establish a new Part E, which provides for federal payments to the states for foster care maintenance and adoption assistance payments made on behalf of certain eligible children. Title IV-E eligible children are categorically eligible for Medicaid.

(2) The Administration for Children and Families is the federal agency that sets regulations and monitors the Title IV-E foster care and adoption assistance programs. Title IV-E is administered by the State Office for Services to Children and Families of the Department of Human Resources. The agency acts as an applicant for the child and provides Title IV-E foster care payments to providers on behalf of eligible children within:

(a) The guidelines established by state and/or federal legislation for the program;

(b) The established financial standards of the AFDC program in effect June 1, 1995;

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(c) Certain state and/or federal regulations and statutory requirements as defined in AFS rules 461-101-010 through 461-195-660 and 461-02-920 in effect June 1, 1995 for AFDC recipients which also apply to the Title IV-E-FC eligible foster child who derives his/her eligibility from the AFDC program.
Statutory Authority: HB2004
Stats. Implemented: PL 96-272

DEFINITIONS

413-100-0020 (1) "ADC No-Adult Standard": The standard applicable to ADC households that do not have an adult in the grant.

(2) "AFDC": Aid to Families with Dependent Children.

(3) "AFS": Adult and Family Services.

(4) "Amnesty Alien": Any person with proper INS documentation who, because of a well-founded fear of persecution due to race, religion, or political opinion, fled his or her homeland. The term "refugee" is applied to all refugees and asylees with proper INS documentation served by AFS under the Refugee Resettlement Program.

(5) "Assistance Unit": Unit of individuals whose needs, income, and resources are considered in determining eligibility for, and the grant amount.

(6) "Child Support": Any voluntary or court-ordered contribution by an absent parent. Support includes, but is not limited to, money payments, necessary and proper shelter, food, clothing, medical attention and education.

(7) "Citizen/Alien Status": A U.S. citizen or alien lawfully admitted under provisions of the Immigration and Nationality Act as a paroled or conditional entrant; or an alien lawfully admitted for permanent residence or who is otherwise permanently and lawfully residing in the United States.

(8) "Countable Income": The amount of available income, including earned and unearned not specifically excluded by AFS rule 461-140-040 to be used to determine eligibility for public assistance.

(9) "Countable Income Limit": This amount is the standard set by AFS as the maximum countable income limit for ADC eligibility. This standard is used as the first step of the income eligibility tests.

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(10) "Court Order Date": Date of court order or temporary court order giving State Office for Services to Children and Families responsibility for placement and care, including orders of detention.

(11) "Earned Income": Income produced as a result of services which the client performed.

(12) "Eligibility Month":

(a) The month court action for placement was initiated resulting in the removal of the child from the home of his/her caretaker; or

(b) The month a documented request for a judicial review of a child in SOSCF's continuous custody is made; or

(c) The month the judicial determination resulting in a court order for SOSCF custody was made when no documentation of a request for a judicial review is evident; or

(d) The month a voluntary agreement is signed; or

(e) The month a voluntary relinquishment is signed.

(13) "Entitlement": Any benefit to which an individual has a valid claim, or would have a valid claim upon application, including one related to past employment or service, pension, compensation payment, allotment allowance insurance payment, interest in an estate or fund, or of a similar nature.

(14) "Family": For purposes of determining Title IV-E-FC eligibility, family is the parent(s), stepparent(s), or relative(s) from whom the child is removed.

(15) "Foster Home": ORS 418.625(2) defines a foster home as one maintained by a person who has under his care a child unattended by his parent and not related by blood or marriage.

(16) "Grant": Is the actual assistance payment for the payment month.

(17) "Home": The home in which the child resided at the time of initiation of the court action. Non-related homes will not be considered as the home which exercises day-to-day care.

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(18) "Incapacity": A condition that causes unemployability or impairs the individual's ability to perform normal functions either on a medical or psychiatric basis.

(19) "Initiation of Court Action": Date court was petitioned or legal action was taken which resulted in the removal of the child from the home of his/her caretaker.

(20) "Need": The monetary amount by which the requirements of AFS standards of an individual or family exceed all income and resources available to them.

(21) "Nunc Pro Tunc Orders": Under Oregon law, the role of a nunc pro tunc order is to supply an omission in the record of action actually taken, but omitted through inadvertence or mistake. Oregon's trial courts are authorized to correct their record so that it will speak the truth and truly set forth the proceedings as they actually occurred.

(22) "Parent": For IV E purposes "parent" means the birth or legal (step or adoptive) mother or father of a person or unborn child.

(a) If the mother lives with a male and either she or the male claims that he is the father of the child/unborn, and no one else claims to be the father, he is treated as the father even if paternity has not been legally established.

(b) A stepparent relationship exists if:

(A) The person is legally married to the child's birth or adoptive parent; and

(B) The marriage has not been terminated by legal separation, divorce or death.

(c) A legal adoption erases all prior legal and blood relationships and establishes the adoptive parent as the legal parent. However, the birth parent is also considered a parent if both of the following are true:

(A) The child lives with the birth parent; and

(B) The legal parent (the adoptive parent) has given up care, control and supervision of the child.

(23) "Payment Standard": This is the amount set by AFS as the ADC net income limit. It is used in the second step of the income eligibility tests. It is also used to determine the actual grant amount.

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(24) "Personal Property": Everything owned which is not real property.

(25) "Real Property": Land, buildings, and generally whatever is erected on or affixed to the land or buildings.

(26) "Release of Temporary Commitment": The State Office for Services to Children and Families is relieved of responsibility by the court for placement and care of the child.

(27) "Resource": Any personal or real property which is or can be made available to meet the need of the assistance unit and is not specifically excluded from consideration by AFS.

(a) Personal Property: Any property that is not real property, including liquid assets;

(b) Real Property: Land, buildings, and whatever is erected on or affixed to the land or buildings and taxed as real property.

(28) "Shelter In-Kind": Shelter paid by an agency (other than AFS) or someone other than the client pays (or provides payment) for the client's rent and utility bills, totally, and at no cost to the client and the client provides no service in exchange for the payment.

(29) "Standards of Assistance": The consolidated standards for payment specified in Adult and Family Service's OAR 461-155-030. These standards are used to determine income eligibility for ADC.

(30) "Title IV-E Program": The Title IV-E program of the Social Security Act provides federal payments for foster care and adoption assistance. The Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) was enacted on June 27, 1980, and established the new Title IV-E program, replacing on October 1, 1982, the Title IV-A foster care program in states.

(31) "Unearned Income": All income which does not directly result from an individual's employment or self-employment.

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

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CERTIFICATION

413-100-0030 Children found eligible for Title IV-E-FC must be placed in a certified or licensed substitute care placement. Documentation in the case record of licensure or certification is required. The following documentation is required for children in out-of-state placements:

(1) Verification that the out-of-state foster home or child caring agency is licensed or approved by the agency in that state which is responsible for licensing or approval of such facilities; or

(2) In states where relative homes are not licensed, a statement in a letter that the home would meet the state's licensing standards for certification or licensure, including a statement of the period of time for which a formal license would be issued for that home.

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

CERTIFICATION OF RELATIVE HOMES

413-100-0040 (1) Relative Payments. Foster care payments to relatives are restricted by Oregon state law. Children in relative foster care must be Title IV-E eligible to receive a foster care payment with the exception of an Indian child. (The Tribal enrollment committee must verify that the child is enrolled as a member of a federally recognized tribe or eligible for enrollment.) State general fund foster care payments may be authorized for these Indian children in relative foster care but found ineligible for Title IV-E.

(2) Relative Placements. With the exception of Indian children, children in the following homes must be found Title IV-E eligible for the relative to receive foster care payments:

(a) The home of any blood or half blood relative or adoptive relative, including persons of preceding generations denoted by the prefixes of grand, great, or great-great. Children with one common birth parent are half-blood relatives;

(b) The home of siblings, aunts, uncles, first cousins, first cousins once removed, nephew, or niece, and grandparents;

(c) The home of a relative, as defined in (a) of this rule, of adoptive parents. A valid decree of adoption establishes the adoptive parent(s) as the legal parent(s) and erases all prior legal and blood relationships;

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(3) Relative Foster Care Provider Rights. The relative foster care provider has a right to:

(a) Information about the Title IV-E foster care program administered by the agency, including the eligibility requirements of the program and the required verification methods for providing verification;

(b) Apply for Title IV-E foster care payments for the financial support of the related child in their care;

(c) Receive these benefits without discrimination when the related child in their care meets the eligibility requirement of the Title IV-E foster care program and the home meets Oregon foster care certification requirements.

(4) Request for Payment. The relative foster care provider may contact the agency with a request for Title IV-E payments. Their request for Title IV-E payments may be in the form of a phone call, visit or written request by the relative provider or another person acting on the relative provider's behalf. This request starts the application process. The date of request is the day the request for foster care payments is received. That date will be recorded by the Eligibility Specialist on the narrative and used to establish:

(a) The date for starting the application processing time frame; and

(b) The earliest date for which Title IV-E eligibility may be established.

(5) Eligibility Determination Time Lines. Eligibility will be determined within 45 days from the date of request for benefits. The limit may be extended for any of the following reasons:

(a) Information needed to determine eligibility is expected to be received after the 45 day limit; or

(b) Other circumstances exist that are not within the control of the client or the branch office, and this delays the eligibility decision past the 45 day limit.

(6) Notification of Closing or Denial of Relative Payment. The eligibility worker will send written notification to the relative foster home at least ten days prior to the effective date of termination of payments when a child is no longer Title IV-E-FC eligible. Notification of denial will also be sent to relative(s) requesting foster care payments when a child placed in their home does not meet the requirements of the Title IV-E-FC program.

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(7) Should relatives not agree with the closure or denial of Title IV-E foster care payments and medical coverage, a conference with the State Office for Services to Children and Families branch staff may be requested. The conference will provide relatives the opportunity to:

(a) Discuss the decision;

(b) Get an explanation of the specific reasons for the action; and

(c) Explain why they feel the action should not be taken.

(8) Relatives also have the right to ask for an Administrative Hearing before an impartial person designated as an authority on the federal eligibility requirements of the Title IV-E Foster Care and medical programs. The purpose of such a hearing is to determine if the branch's Title IV-E foster care eligibility determination decision is in compliance with the guidelines established by state and/or federal legislation for the program. If the hearing decision is that Title IV-E foster care payments and medical coverage have been wrongfully denied or terminated, corrective payment action will be taken.

(9) Whether relatives request a conference with branch staff, or an Administrative Hearing, witnesses may testify on their behalf and legal counsel or other representatives may be present. The State Office for Services to Children and Families will not pay the expenses of witnesses attending or of an attorney.

(10) Whenever a client or the client's authorized representative clearly expresses a desire to have a hearing, orally or in writing, the client has requested a hearing. The Eligibility Specialist will document the hearing request date on the narrative.

(11) Relatives may make a written or oral request for an Administrative Hearing to either their local branch office or the Central Office. Requests for an Administrative Hearing must be made within 45 days of the date of notice of closure or denial of Title IV-E foster care payments and medical coverage.

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

CERTIFICATION OF UNRELATED HOMES

413-100-0050 (1) Definition of Unrelated Home. Certification of the home is required when children are placed in the home of a person formerly related by blood or

Prior Version

marriage. The following homes meet SOSCF's definition of an unrelated home. General Fund foster care payments may be made to the following certified homes:

(a) The home of a person formerly related to the child by marriage when:

(A) The relationship by marriage was terminated by death or divorce;

(B) The child was not adopted by a step-parent prior to the dissolution of the marriage or death of the natural or adoptive parent. A child's relationship to his/her step-parent ends 30 days after the entry of a divorce decree.

(b) The home of a person no longer related to the child by blood, with the exception of the birth parent. Blood relationships end when the child is legally adopted by another family. A valid decree of adoption establishes the adoptive parent(s) as the legal parent(s) and erases all the prior blood relationships of siblings, unless also adopted by the same adoptive parents, and extended family members.

(c) The home of a putative paternal relative. A paternal relationship by blood does not exist when:

(A) There is no court order establishing paternity or no evidence of such an order having been submitted to Vital Statistics; or,

(B) The father's name is not on the birth certificate. (Only the birth certificate issued by Vital Statistics will provide proof of paternity having been established by the court. The hospital certificate giving the father's name is not sufficient evidence of paternity.); or

(C) The putative father signed relinquishment papers without ever having signed a stipulation of paternity. (The Support Enforcement Division does not recognize the signing of a stipulation of paternity without the mother agreeing that the man is indeed the father. The HS 21 form jointly signed by the mother and putative father is a legal document which establishes paternity and allows the father's name to be added to the birth certificate.)

(2) Definition of Non-substitute Care Placements. Children in the following relative homes are not considered to be in substitute care and are ineligible for foster care payments:

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(a) The home of a birth parent even after adoption or termination of parental rights;

(b) The home of the designated caretaker relative from whose physical custody the child was removed;

(c) The home of a relative when the child's parent resides under the same roof;

(d) The home of a step-parent when the birth parent and step-parent are separated, but not divorced.

(e) The home of a relative when the relative has legal custody;

(f) The home of a relative when this home was the dwelling shared by the parent and the child at the time of removal.

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

REIMBURSABLE PLACEMENTS AND PAYMENTS

413-100-0060 (1) Reimbursable Placements. There are five types of out-of-home placements which meet the Title IV-E definition of a reimbursable placement. They are:

(a) An approved foster family home;

(b) A private, non-profit, non-medical group home or crisis residential center licensed by the state;

(c) A public non-medical group home or child-care facility which has a licensed capacity of less than 26 beds;

(d) A pre-adoptive placement; or

(e) A relative foster home.

Prior Version

(2) Reimbursable Payments. Title IV-E foster care maintenance payments for a child in foster care may cover:

(a) The cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to the child, and reasonable travel to the child's home for visitation; and,

(b) In the case of institutional care, the reasonable costs of administration and operation of such institution as are necessarily required to provide the items noted above.

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

APPLICATION FOR TITLE IV-E-FC

413-100-0070 (1) Children in the care and custody of SOSCF and in substitute care will be referred for a Title IV-E-FC eligibility determination.

(2) Under no circumstances is Title IV-E-FC to be authorized on behalf of any child prior to the establishment of eligibility by SOSCF's eligibility worker. A child cannot be eligible for Title IV-E-FC on the basis of presumed eligibility.

(3) Applications will be submitted to eligibility workers under the following timelines:

(a) No later than three working days after a child's placement with a relative provider, unless the relative declines foster care payments;

(b) No later than 14 working days after a child's placement in regular paid care. (No application is required when children leave care on or before the seventh working day.)

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

EFFECTIVE ELIGIBILITY DATE

413-100-0080 Eligibility for Title IV-E can be established when all other eligibility criteria is met:

(1) No earlier than the date of placement when the child is in the agency's legal care and custody; or

Prior Version

(2) The placement date, when custody is awarded (excluding Saturdays, Sundays and holidays) within 24 hours of placement; or,

(3) The day after the last Title IV-A entry claim date; or,

(4) The first of the month in which both "Reasonable Efforts" and "Contrary to the Welfare" rulings are made when the court delays making either finding; or

(5) The first day of the month following the closure of the AFDC Non-Needy Relative (NNR) grant for the relative provider having received AFDC maintenance payments; or,

(6) The effective certification date of the relative provider's home when an AFDC (NNR) grant has not been received; or,

(7) The effective certification date when SOSCF Financial Services has reimbursed AFS the relative provider's AFDC (NNR) grant retroactive to the certification date; or,

(8) Effective the date the child is no longer in receipt of SSI (if applicable); or,

(9) The first of the month in which the court makes a judicial determination of "best interests" and "reasonable efforts" when a child in their parental home under SOSCF custody is returned to care; or

(10) The first of the month in which the voluntary placement agreement is signed, when placement occurs prior to the signing of the agreement.

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

RETROACTIVE ELIGIBILITY

413-100-0090 (1) A claim for retroactive eligibility may be made on otherwise eligible cases when:

(a) A nunc pro tunc order is issued giving retroactive effect to the judicial findings included in the order and documentation meets the requirements outlined in rule 413-100-240(6); or

(b) A referral for a Title IV-E FC eligibility determination was not timely.

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(2) The effective date of eligibility for cases pended only for judicial determination requirements is:

(a) The first of the month in which the judicial determination is made; or

(b) The first of the month in which an existing order is modified to reflect a ruling not previously made.

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

PENDED CASES

413-100-0100 Applications with a potential for Title IV-E-FC eligibility with requirements which cannot be met or eligibility factors which cannot be cleared within the month of referral will be pended indefinitely.

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

EFFECTIVE CLOSURE DATE

413-100-0110 The effective date of termination for cases no longer meeting Title IV-E-FC eligibility criteria is the following:

(1) The end of the month in which eligibility ceased to exist; or

(2) Retroactive to the end of the month in which eligibility ceased to exist even though information causing the child's ineligibility became known to the agency after the fact; or

(3) The day the parent(s), custodial or non-custodial, establishes residency in the home where their child resides; or

(4) The day the foster home license certification is terminated; or

(5) On the 180th day of placement for a voluntary placement not approved for continuation by the court within 180 days. The date the child is placed, not the signature date on the agreement, will begin the count; or,

(6) The day SOSCF ceases having legal care and custody of the child; or,

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(7) The end of the month in which an 18-year-old youth graduates or obtains a GED; or the end of the last month they are 17 years of age if they did not or will not graduate by age 19.

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

VERIFICATION OF ELIGIBILITY

413-100-0120 (1) To establish Title IV-E-FC, eligibility factors must be verified with documentary evidence acceptable for verification. The agency decides which eligibility factors require verification and what the acceptable type of verification are. The agency may:

(a) Decide that additional eligibility factors must be verified;

(b) Deny an application or end ongoing benefits when acceptable verification is not provided or available.

(2) Verification is required for the following:

(a) Residency;

(b) Alien status;

(c) Referral to Support Enforcement Division;

(d) Age and school attendance;

(e) Removal from the home of the designated relative caretaker;

(f) Judicial Language on Court Orders;

(g) Countable family/child income and benefits;

(h) Work status;

(i) Parental deprivation;

(j) Family/child resources.

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

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ELIGIBILITY DETERMINATIONS

413-100-0130 (1) Title IV-E eligibility is determined on a one-time basis when the child enters substitute care. Children removed from the home of a parent or other caretaker-relative must meet specific eligibility requirements.

(2) The agency will reconstruct the case facts in the eligibility month to determine if the child was receiving AFDC, or might have been eligible for AFDC had an application been made. The child must have a relationship to the AFDC program during the eligibility month.

(a) AFDC Relatedness. The child meets the AFDC relatedness test if one of the following three criteria is met:

(A) The child was in receipt of AFDC in the eligibility month, and remains within the resource limits prior to the implementation of the Oregon Options Waiver under Section 1115 of the Soc. Sec. Act effective (7-1-96); or

(B) The child was eligible to receive AFDC in such month, if an application had been made; or

(C) The child did not live with the AFDC specified relative in such month, but did live with such a relative in any of the preceding six months; and would have been eligible to receive AFDC during the eligibility month signed had an application been made.

(b) Circumstances defining AFDC eligibility or hypothetical AFDC eligibility for Title IV-E purposes are:

(A) Living with a specified relative;

(B) Deprived of the support of one or both parents;

(C) Financial need;

(D) U.S. citizen;

(E) Age.

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

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SPECIFIED CARETAKER RELATIVE

413-100-0140 (1) Definition of Specified Caretaker Relative for Removal Purposes. AFDC relatedness tests require that the child be physically removed from the home of a specified relative. A specified relative is defined as:

(a) Birth, adoptive, or stepparent;

(b) Any blood relative or half-blood relative, including persons of preceding generations denoted by the prefixes of grand, great, or great-great; (Children with one common birth parent are half-blood relatives.)

(c) Aunts, uncles, first cousins, first cousins (once removed);

(d) Persons who legally adopt a child and any people related to the child through the adoption who meet the degree of relationship specified in this rule. A valid decree of adoption establishes the adoptive parent(s) as the legal parent(s) and erases all prior legal and blood relationships;

(e) Stepmother, stepfather, stepbrother, or stepsister, even after marriage is terminated by death or divorce;

(f) Spouse of anyone listed above, even if the marriage has been terminated by death or divorce.

(2) Not Living With Specified Relative.

(a) Children removed from homes not related by blood or marriage will have their eligibility based on the AFDC eligibility of the related home in which the child last resided. Such children must have lived with a specified relative within six months of initiation of court action which resulted in the placement into SOSCF custody;

(b) Children hospitalized under parental custody and released into SOSCF custody for placement purposes will be considered to have lived with the parent regardless of the length of the child's hospitalization.

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(3) Removal Requirements. AFDC relatedness tests require that the child be removed from the home of a specified relative. The removal home is the home from which the child is removed and where daily supervision and care of the child is maintained. For Title IV-E purposes, the designation of the home from which removal is based on is:

(a) The home of a relative when the relative exercises day-to-day care and control with the expectation of continuing to do so indefinitely. A home is the family setting maintained, or in the process of being established, as evidenced by assumption and continuation of responsibility for day-to-day care of the child by a relative with whom the child is living. The child will be considered to be living in the home of the relative when the parent(s) of a child leave the home in which the child and relative remain for an indefinite period of time, or place the child with relatives and do not return;

(b) The home of the parent when the child in a relative home is considered to be a temporary resident of the home. The designated home for removal purposes will be the custodial parent's home when care and control by the relative or non-custodial parent is expected by all parties to be temporary or of a specific duration;

(c) The relative home where the child last resided.

(4) The child is not considered to be removed from the home of a specified relative and Title IV-E eligibility does not exist when:

(a) Court action initiated for purposes of placing a child in SOSCF custody results in the removal of the child from the legal custody of the parent, but does not physically remove the child from the designated day-to-day relative caretaker's home; or

(b) A child previously denied Title IV-E due to court action not resulting in the child's physical removal from the home of the designated day-to-day relative caretaker is moved from the home of that relative foster parent and moved into another placement; or

(c) A parent resides with his/her child in a relative home and the parent leaves the home of the relative for an indefinite period of time leaving the child in the relatives home. When the child's home is with the parent and a relative, the child must be physically removed from that home for eligibility to be considered even when the parent is temporarily absent from or leaves the home.

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(d) Court action initiated for purposes of placing a child in SOSCF custody results in the removal of the child from the legal custody of the relative caretaker, but does not physically remove the child from the relative caretaker's home.
Statutory Authority: HB2004
Stats. Implemented: PL 96-272

PARENTAL DEPRIVATION

413-100-0150 A continued absence of one or both birth or adoptive, or stepparent(s) from the home constitutes the basis for deprivation of parental support or care. Deprivation in relation to the home from which the child is removed exists when there is:

(1) Death. If either parent is deceased, the child is deprived of parental support or care.

(2) Continued Absence.

(a) The parent is out of the home and the nature of this absence is such as to either interrupt or terminate the parent's functioning as a provider of maintenance, physical care, or guidance for the child; or

(b) There is evidence of continued absence of over 30 days duration; or

(c) Predictable absence due to divorce, legal separation, incarceration, and other verified and documented circumstances.

(3) Unemployment or Incapacity. For two-parent families with no absent parent, deprivation must be based on one of the following;

(a) Incapacity. One parent must meet one of the following criteria:

(A) Receives SSI;

(B) Receives SSB based on disability or blindness;

(C) Is unable to work or has a physical or mental condition that is expected to last at least 30 days and substantially reduces the parent's ability to support or care for the child.

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(b) Unemployment or underemployment. Consider a two-parent household unemployed or under employed if they meet one of the following criteria:

(A) Is working less than 100 hours per month;

(B) Has a temporary one-month increase to over 100 hours, but:

(i) Worked less than 100 hours in each of the two previous months; AND

(ii) Is expected to work less than 100 hours in the following month. (IV-A)

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

FINANCIAL NEED

413-100-0160 A child removed from the home of a specified relative and not in receipt of AFDC requires reconstruction of the child's situation to determine whether AFDC eligibility was possible. A step-by-step process must be followed.

(1) Child is removed from a parent's home:

(a) First consider the income and resources of the parent(s) or stepparent from whom the child was removed; and

(A) Determine the countable gross earned and unearned income of all the family members in the assistance unit in the eligibility month; and

(B) Include the child placed in substitute care in the assistance unit. Exclude the parent or child receiving SSI or a combination of SSI and other Social Security benefits.

(C) Determine if the total countable gross earned and unearned income of the assistance unit exceeds the ADC Countable Income Limit for the household.

Prior Version

(b) The second consideration in the income eligibility test is to:

(A) Determine the countable gross earned income with disregards and countable unearned income of all the family members in the assistance unit, including the child(ren) who has/have been removed;

(B) An assistance unit is not eligible when all available countable income in the eligibility month, both earned and unearned, exceeds the ADC Countable Income Limit, or the Adjusted Income Payment Standard. (SSI or a combination of SSI and SSA benefits are excluded as countable income.) (The first $50 of child support is also excluded.) The Adjusted Income Payment Standard is used to determine the actual ADC grant amount;

(C) An assistance unit is not eligible if in the eligibility month all available resources not excluded by AFS Rules are over the Resource Limit.

(2) Child Removed from a Caretaker Relative's Home. When a child is removed from a caretaker relative's home the steps of the eligibility test are to:

(a) Disregard the income and resources of the caretaker relative(s);

(b) Determine the countable earned and unearned income and resources available to the child;

(c) Include the child placed in substitute care in the Assistance Unit;

(d) Deny Title IV-E eligibility if the child's income is above the No Adult Standards for the ADC Non-Needy Relative Assistance Unit.

(3) Child Removed from a Minor Mother Residing in her Parent(s)' Home.

(a) A minor child is considered to be any person under the age of 18 who has not been emancipated by a court of law, married, or a member of the Armed Forces of the United States. When a child is removed from a minor mother residing in her parent(s) home, the first step of the eligibility test is to:

(A) Exclude the resource of the parent(s) of the minor mother;

(B) Determine the amount of countable income of the parent(s);

Prior Version

(C) Deduct the needs of the parent(s) and their dependents living in the same household at the ADC Adjusted Income Payment Standard. Do not include the minor mother and her child in the assistance unit;

(D) Allow the standard earned income deduction;

(E) Deduct payments of alimony or child support;

(F) Any remaining income is considered available to the minor parent and their dependent child even if it is not received.

(b) The second step of the eligibility test is to:

(A) Determine the minor mother and her child's needs at ADC Adjusted Income Payment Standards; (i.e. needs standard);

(B) Deduct the grandparent's income available to the minor parent from the ADC Adjusted Income Payment Standard; (i.e. needs standard);

(C) Deny Title IV-E eligibility if the grandparent's income exceeds the payment standard for the minor parent.

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

NEED AND RESOURCES

413-100-0170 (1) The resource limit is $1,000. An assistance unit with resources in excess of $1,000 is ineligible for public assistance. The most common resources are cash, bank accounts, and motor vehicles.

(2) If an ADC assistance unit has a licensed motor vehicle, only the first $1,500 of equity value of the vehicle is exempt. Any equity over $1,500 is counted toward the $1,000 resource limit. Any vehicle with over $2,500 equity value, or any second car with more than $1,000 equity, makes the family ineligible.

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

Prior Version

EARNED INCOME OF STUDENTS

413-100-0180 (1) Children under age 18 with a GED or high school diploma and employed must have their earnings considered as income to reduce the foster care payment. Otherwise Title IV-E FC payments must be closed.

(2) Earned income is not counted for:

(a) A child, 18 years old or younger, who is a full-time student in grade 12 or below (or the equivalent level of vocational training or GED courses); or

(b) Children under 18 years of age and at least part-time students (as defined by the institution) in grade 12 or below (or in the equivalent level of vocational training or GED courses) and not employed full-time.

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

UNEARNED INCOME

413-100-0190 (1) For Title IV-E-FC purposes, all unearned income/benefits potentially available to the child must be counted against his/her foster care need on a dollar-for-dollar basis. Benefits awarded to the child for which the agency is not yet payee or benefits not readily available to the child must still be counted.

(2) The following are examples of countable unearned income:

(a) All Social Security benefits;

(b) Veteran's benefits;

(c) Loans;

(d) Cash contributions from any source;

(e) State or private accident or disability payments;

(f) Personal injury settlements;

(g) Lump sum income (except SOIL and IRS recoveries and lump sum support payment applied in the month of receipt to offset prior months Title IV-E maintenance costs);

Prior Version

(h) Child support;

(i) Railroad Retirement and other pensions;

(j) Annuities, dividends, interest, royalties.

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

LUMP SUM BENEFITS

413-100-0200 (1) Lump sum benefits must be used to offset a child's cost of care. Federal lump sum benefits paid into the agency must be applied retroactively to reimburse the agency from the date paid placement was initiated. The agency must be the representative payee. This can be accomplished by contacting SCF's Child Benefit Unit.

(2) Title IV-E-FC eligible children receiving lump sum benefits are considered eligible, but unreimbursable for Title IV-E during the months the calculated lump sum exceeds their substitute care need.

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

CITIZENSHIP AND ALIENAGE

413-100-0210 A child eligible to receive Title IV-E-FC is:

(1) A United States citizen; or

(2) An alien lawfully admitted under provisions of Section 203(a)(7) (prior to April, 1980), 207(c), 208, 249, 584(a), 101, Section 207(c) (after March 31, 1980) or Section 212(d)(5) of the Immigration and Nationality Act as a paroled or conditional entrant, or aliens granted immigrant status according to the Amerasian Homecoming Act.

(3) An amnesty alien granted permanent or unexpired temporary resident admitted under Section 245A, 210, 210A, status by the Immigration and Nationality Act and otherwise Title IV-E-FC eligible may receive Title IV-E-FC even though the child and his/her parents are prohibited from receiving ADC.

(4) Not an illegal alien.

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

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RESIDENCY

413-100-0220 There is no minimum residency requirement for Title IV-E-FC eligibility. There need only be the intent for the child to reside in the State of Oregon under SOSCF's custody.

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

AGE REQUIREMENTS

413-100-0230 (1) To qualify for Title IV-E-FC, a child must be:

(a) Under age 18: Children under age 18 do not have to attend school to be eligible for Title IV-E-FC;

(b) Age 18, and regularly attending school or training, and expected to complete training or graduate from school by age 19; or

(c) Enrolled in and attending school if age 18, and graduated by age 19. This must be verified prior to establishing eligibility for Title IV-E-FC. During summer vacation, verification of enrollment for the next school year is required.

(2) Regular school attendance means enrolled in and attending any of the following:

(a) A school in grade 12 or below; or

(b) GED classes in lieu of high school; or

(c) A course of vocational or technical training in lieu of high school.

(3) The students full-time or half-time attendance is defined by the school.

(4) A child will be considered in regular attendance during a training program, vacation, illness, or family emergency.

(5) Students are considered to be attending for the full month in which they complete or discontinue school or training.

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

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JUDICIAL DETERMINATION REQUIREMENTS

413-100-0240 (1) Best Interest Determination. The first court order issued in relation to the child's removal and placement should contain language or words to the effect that:

(a) "Placement is in the best interest (BI) of the child;" or

(b) "Continuation of residence in the home is contrary to the welfare (CTW) of the child."

(2) Should the Court fail to make a "Best Interest" or "Contrary to the Welfare" ruling in the first order issued at the time of the removal, the case will be pended awaiting a dispositional hearing. The "Contrary to the Welfare" or "Best Interest" requirement may be met through a subsequent order if the judicial determination is made within 6 months of the child's removal.

(3) Reasonable Efforts Requirement. Effective 10-01-83 the court order issued in relation to the removal contains language to the effect that:

(a) "Reasonable efforts in light of the child(ren)'s and parent's circumstances were made to prevent or eliminate the need for removal of the child from the home;" or

(b) "Reasonable efforts, in light of the child(ren)'s and parents circumstances have been made to make the return of the child to the home possible."

(4) Cases Pended for a Reasonable Efforts Determination. The judicial determination requirement of "reasonable efforts" may be satisfied without benefit of a hearing, but based on the court's review of current circumstances surrounding the replacement.

(a) Should the first order issued at the time of the child's removal contain a "best interest" ruling, but no "reasonable efforts" finding, the case will be ineligible until the first of the month in which the court makes a "reasonable efforts" finding on a subsequent order;

(b) Once the court makes a "reasonable efforts" finding on an otherwise eligible case, Title IV-E can be claimed for the duration of the placement even when the court rules at a later date that "reasonable efforts" have not been made to reunite the child with the family.

Prior Version

(5) Orders Reflecting Recommended Placements. The court order must also:

(a) Recommend, not specify placement with a particular individual; and

(b) Allow the agency to freely make decisions about a change in the child's placement without further court approval; or

(c) Reflect that the court was advised of, and approved, placement or the agency's intent and case plan to place the child at a future date.

(6) Nunc Pro Tunc Orders. Nunc pro tunc or amended orders are acceptable to correct the omission of a "best interest" or "reasonable efforts" ruling in the original removal order only when documentation such as court transcripts, bench notes, court documents and the caseworker narrative are available to verify that the judicial determination was made at the original removal hearing.

(7) Replacement Orders. Each time a child is removed from the home in the following instances, a new eligibility determination and a judicial review addressing the circumstances of the child's removal is required regardless of whether the child is already committed to the department's custody:

(a) The case plan was for the child to remain in the parental home; or

(b) New circumstances or issues arose in the parental home causing the child's replacement; or

(c) The child was under agency supervision and removed from the legal care, custody, and placement of a relative; or

(d) A child in a legally finalized adoptive placement is returned to care.

(8) Replacement Order Time Lines. The court's review of the circumstances surrounding the child's replacement must:

(a) Be initiated within six months of the date the child last lived with the parent; and

(b) Take place within 180 days of initiation of court action; and

Prior Version

(c) Include a "best interest" determination that replacement of the child into care was in the child's "best interest," or words to that effect, in the first order issued after the child's replacement. (A reasonable efforts ruling may be obtained at a later date.)

(9) Exceptions to Replacement Orders. Some Title IV-E-FC eligible children, moved while in care or with interruptions or delays in placement, require no new application or new judicial determination for Title IV-E-FC. The eligibility factors of deprivation, limited income and resources available to the child, and school registration for the 18 year old must still exist, to reopen or continue Title IV-E eligibility. Eligibility may be reopened or established effective the day the child enters paid care for the following otherwise eligible children:

(a) Children moved from a paid or unpaid relative placement into family foster care;

(b) Children at home awaiting a residential opening and the court has approved placement in a residential facility;

(c) Children on the run or taken by the parent without SOSCF's permission are located in the home of the parent and immediately returned to care;

(d) Children on the run are located in the home of the parent and are allowed to remain there for a reasonable time, with the worker's consent, until a placement becomes available;

(e) Children with interrupted placement resulting from:

(A) A runaway; or

(B) Placement in a detention facility or a juvenile training school; or

(C) Hospitalization.

(f) Children returned to care from the parental home when a trial visit fails. A judicial review is not required for a failed trial visit under the following situations:

(A) SOSCF custody was continued during the trial visit period; and

Prior Version

(B) At the time the child was sent home, the case record narration or documentation designated that the child's return home was on a trial visit basis; and

(C) The duration of the trial visit was no longer than six months.

(g) Children in continuous placement and returned by court order to the care and custody of SOSCF from the custody of a private agency or substitute care provider.

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

VOLUNTARY PLACEMENT AGREEMENTS

413-100-0250 Children in placement based on the signing of a Voluntary Custody Agreement or Voluntary Child Placement Agreement, and Title IV-E-FC eligible must:

(1) Within 180 days of placement, have a judicial determination by court order to the effect that such placement is in the best interests of the child. A finding of reasonable efforts is not required. The judicial determination requirement may be met without a court hearing, i.e. letter to the court which results in a court order; or otherwise

(2) Be closed if the court has not made a judicial determination within the first 180 days of the voluntary placement. The effective date of closure is the 180th day.
Title IV-E-FC eligibility cannot be continued or reopened during the duration of the child's placement if this time line is not met.

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

VOLUNTARY RELINQUISHMENTS

413-100-0260 (1) Children in placement based on the signing of a voluntary relinquishment are eligible for Title IV-E if court action is initiated within six months of the month the child last lived with the parent and there is a judicial determination in the first court order issued that:

(a) Remaining in the home would be "contrary to the welfare" of the child; and

(b) "Reasonable efforts" have been made in relation to the child's removal from the home.

Prior Version

(2) Title IV-E eligibility is effective the first of the month of the court order when all other eligibility criteria are met.

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

REVIEWING ELIGIBILITY

413-100-0270 (1) Once Title IV-E eligibility is established, the agency shall determine for each month a child is in care whether the child's cost of care was reimbursable under Title IV-E. A child may lose and regain reimbursability on a frequent basis. The loss of reimbursability in any one month does not permanently deprive the child of reimbursability in future months. For all Title IV-E cases, except relative foster care cases, redeterminations shall occur at least every year to establish whether the reimbursability criteria are met on a month-to-month basis. For relative foster care cases the redeterminations will occur at least every six months. Circumstances defining reimbursability for Title IV-E purposes are:

(a) Resources;

(b) Income;

(c) Age;

(d) Parental Deprivation.

(2) The child will be found temporarily unreimbursable for Title IV-E when the child's:

(a) Resources exceed $1,000 in any month;

(b) Countable earned and unearned income exceeds the cost of the substitute care maintenance payment;

(c) Placement is in a foster home awaiting certification.

(3) The following factors must be reviewed in determining a child's continued eligibility for Title IV-E-FC:

(a) The child's resources must not exceed $1,000 in any month or he/she will be found temporarily unreimbursable for Title IV-E-FC; and

Prior Version

(b) The child's countable earned (per OAR 413-100-180) and unearned (per OAR 413-100-190) income, including lump sum benefits (per OAR 413-100-200) must not exceed the cost of the substitute care maintenance payment or he/she will be found temporarily unreimbursable for Title IV-E-FC; and

(c) There must be continued deprivation of parental care and support in the home from which the child was removed and on which the eligibility determination was based; and

(d) The 18-year-old child must be in school full time or in the equivalent level of vocational or technical training and expected to complete or graduate from such school or training by age 19. If verification cannot be obtained, children age 18 will not be eligible. Title IV-E must be closed effective:

(A) The end of the month in which the 18-year-old youth graduated or obtained a GED; or

(B) The end of the last month they are 17 (i.e. the end of the month prior to their 18th birthday) if they did not or will not graduate by age 19.

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

DEPRIVATION AT RELINQUISHMENT OR TERMINATION OF PARENTAL RIGHTS

413-100-0280 In the month parental rights are terminated or voluntarily relinquished, there must be deprivation in the home from which the child was removed for the child to remain Title IV-E-FC eligible. Thereafter, parental deprivation will not be a consideration in further reviews of eligibility. Deprivation will be based on continued absence.

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

PARENTAL DEPRIVATION AT REVIEW

413-100-0290 (1) Existing Deprivation. To maintain Title IV-E reimbursability the child must be considered to be continually deprived of the parental support and care of one or both parents as if they were back in the home from which they were removed. However the deprivation need not be the same as at the time of the original application. Deprivation will be:

Prior Version

(a) Divorce, marital separation, incarceration, never having been married, or death in single parent households, or absent parents for children removed from a relative home;

(b) Unemployment or incapacity in two-parent households. Because the parents' wages and/or benefits are disregarded at review, reimbursability may continue when:

(A) Both parents are unemployed or incapacitated; or

(B) Both parents are unemployed or each parent is working less than 100 hours per month, or either parent has a temporary one-month increase to over 100 hours, but:

(i) Worked less than 100 hours in each of the two previous months; and

(ii) Is expected to work less than 100 hours in the upcoming month.

(C) One parent is incapacitated and the other is employed.

(c) Continued absence when:

(A) A child is removed from the home of a relative other than the parent; or

(B) Parental rights of the parent or parents from whom removal was based are terminated or relinquished. The status of the parents does not have to be verified after termination or relinquishment. (See OAR 413-100-280.)

(2) Deprivation Not Existing: Children do not meet the deprivation requirement and reimbursability does not exist when:

(a) The parent remarries, if removal was based on that parent, and deprivation based on incapacity or unemployment does not exist in the two parent household; or

(b) The parent reconciles with the parent of the child in care and deprivation based on incapacity or unemployment does not exist in the two parent household; or

Prior Version

(c) Both parents return to reside in the home of the caretaker relative from whom the child was removed, or on whom eligibility was based; or

(d) The child returns to the home of a relative from whom the child was removed, and on whom eligibility was based; or

(e) A parent visits extensively in the relative caretaker foster home. Parental visits in the child's home and that of the relative caretaker may not exceed four times per week, or a total of 12 hours per week without a visitation plan outlined or reasonable explanation documented in the eligibility file. Such documentation is needed to ensure that the parent has not assumed the caretaking responsibilities of their child. (IV-A).

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

PARENTAL REFERRAL TO SUPPORT ENFORCEMENT DIVISION

413-100-0300 Every Title IV-E-FC eligible child (unless excepted by policy) must be referred to the Support Enforcement Division of the Oregon Department of Justice. The referral is made via SOSCF's IIS automated referral process.

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

TITLE XIX ELIGIBILITY

413-100-0310 All children found eligible for Title IV-E-FC will be automatically eligible for Title XIX as described in SOSCF's rule OAR 413-100-430.

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

COBRA AND TITLE XIX

413-100-0320 (1) The Consolidated Omnibus Reconciliation Act of 1985, PL 99-272 (COBRA) enacted on April 7, 1986, permits Title IV-E-FC eligible children in paid substitute care or receiving adoption assistance to receive Medicaid (Title XIX coverage) from the state where they reside.

(2) The SOSCF eligibility worker will notify the foster or adoptive parent(s) residing or moving outside of Oregon of the discontinuance of the Oregon Medicaid Card and need to apply for Medicaid under COBRA for their Title IV-E eligible child in their new state of residence.

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Statutory Authority: HB2004
Stats. Implemented: PL 96-272

SSI ELIGIBILITY

413-100-0330 Children cannot receive SSI payments and Title IV-E foster care payments concurrently. A determination of which funding source is of most financial benefit to the agency must be made. The following children will be referred to the SSI Unit, Central Office SOSCF for the determination:

(1) SSI recipients in residential or group care placement;

(2) SSI eligible children receiving a special rate and standard foster care payment under Title IV-E;

(3) SSI eligible children with a cost of care under the SSI rate for consultation on closure of Title IV-E;

(4) SSI eligible children receiving Title XIX Personal Care and Title IV-E foster care payments for consultation on closure of Title IV-E and application for SSI.

(5) SSI eligible children placed in a Relative Foster Home and potentially eligible for a Special Rate Foster Care payment.

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

AFS NOTIFICATION AND CONCURRENT FEDERAL PAYMENT

413-100-0340 AFS must be notified by the eligibility specialist when children are receiving AFDC and are placed in foster care. Title IV-E-FC relative payments cannot be authorized for otherwise eligible children when the relatives are receiving an AFDC/NNR grant for the children as the relatives would incur an overpayment with AFS. Title IV-E relative foster care payments may begin when the child is removed from the ADC grant.

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

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MINOR MOTHERS AND CHILDREN

413-100-0350 Children in the care and custody of the agency and not removed from their minor mothers in a foster care placement are not deprived of their parent. They do not meet the removal requirement for Title IV-E-FC eligibility. The child's parent must be absent from the foster home before Title IV-E-FC can be considered.

Statutory Authority: HB2004
Stats. Implemented: PL 96-272

FRAUDULENT RECEIPT OF AFDC

413-100-360 If it is a known fact that a family was fraudulently receiving AFDC based on parental absence, Title IV-E must be established on the basis of a two-parent household. However, if there is only suspicion and no documentation of fraud, Title IV-E eligibility based on an absent parent may be considered.

Statutory Authority: HB2004
Stats. Implemented: PL 96-272